

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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M.M. on behalf of D.M.

Plaintiff,

-against-

DEPARTMENT OF EDUCATION OF THE CITY OF
NEW YORK.

Defendant.
----- X

ANSWER

07 CV 8640 (DC)

Defendant Department of Education of the City of New York by their attorney,
Michael A. Cardozo, Corporation Counsel of the City of New York, for their Answer to
plaintiff's Complaint, respectfully alleges as follows:

1. Denies the allegations set forth in paragraph "1" of the complaint, except admits that plaintiff purport to proceed as set forth therein.
2. Denies the allegations set forth in paragraph "2" of the complaint, except admits that plaintiff purports to invoke the jurisdiction of this Court as set forth therein.
3. Denies the allegations set forth in paragraph "3" of the complaint.
4. Denies the allegations set forth in paragraph "4" of the complaint, except admits that plaintiff purports to lay venue in this judicial district for the reasons stated therein.
5. Denies knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph "5" of the complaint.
6. Denies knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph "6" of the complaint.
7. Admits the allegations set forth in paragraph "7" of the complaint.

8. Denies the allegations set forth in paragraph “8” of the complaint, and respectfully refers the Court to 20 U.S.C. § 1400 et seq., N.Y. Educ. Law § 4401 et seq., and 8 NYCRR § 200.1 et al. for a complete and accurate statement of the responsibilities of defendant as a local educational agency.

9. Denies the allegations set forth in paragraph “9” of the complaint, and respectfully refers the Court to the document cited therein.

10. Denies knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph “10” of the complaint.

11. Denies the allegations set forth in paragraph “11” of the complaint, and respectfully refers the Court to the document cited therein.

12. Denies the allegations set forth in paragraph “12” of the complaint, and respectfully refers the Court to the document cited therein.

13. Denies the allegations set forth in paragraph “13” of the complaint.

14. Denies knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14” of the complaint.

FOR A FIRST DEFENSE

15. Plaintiff’s claims are barred in whole or in part by the applicable statutes of limitations.

FOR A SECOND DEFENSE

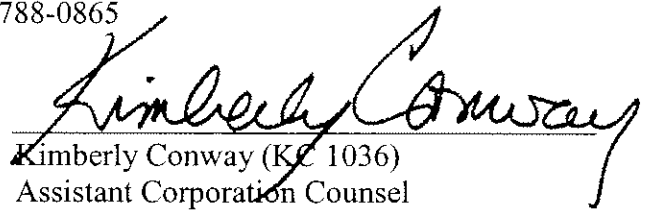
16. Plaintiff fails to state a claim upon which relief can be granted.

WHEREFORE, defendant respectfully requests that this Court enter an order dismissing the complaint and denying all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
October 29, 2007

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for defendants
100 Church Street, Room 2-168
New York, New York 10007
(212) 788-0865

By:

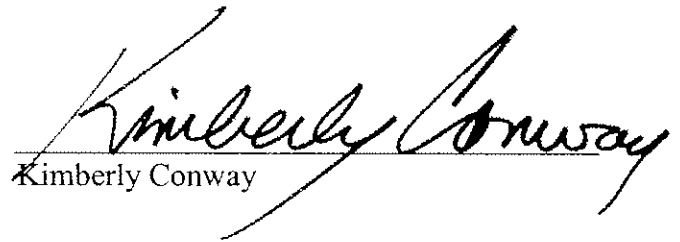

Kimberly Conway (KC 1036)
Assistant Corporation Counsel

TO: Gary S. Mayerson
Mayerson & Associates
Attorneys for Plaintiff
330 West 38th Street, Suite 600
New York, NY 10018

CERTIFICATE OF SERVICE

I, Kimberly Conway, hereby certify that a copy of defendant's Answer in response to plaintiff's complaint was caused to be served on the party listed below via first-class mail, on October 29, 2007.

Gary S. Mayerson
Mayerson & Associates
Attorneys for Plaintiff
330 West 38th Street, Suite 600
New York, NY 10018


Kimberly Conway

Dated: New York, New York
October 29, 2007

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ANSWER

MICHAEL A. CARDOZO

Corporation Counsel of the City of New York

Attorney for Defendants

100 Church Street

New York, N.Y. 10007

Of Counsel: Kimberly Conway

Tel: (212) 788-0865

NYCLIS No.

Due and timely service is hereby admitted.

New York, N.Y., 2007

..... Esq.

Attorney for